

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

MARK SMITH a/k/a Marky

Defendant.

DECISION AND ORDER
07-CR-291S-5

1. On August 28, 2009, the Defendant entered into a written plea agreement (Docket No. 464) and pled guilty to Count 14 of the Indictment (Docket No. 188) charging a violation of Title 21, U.S.C. Section 843(b) (use of a communication facility to commit a drug trafficking crime).

2. On August 28, 2009, the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, filed a Report and Recommendation (Docket No. 466) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1)(C) and Local Rule 58.2(a)(3).

4. This Court has carefully reviewed *de novo* Judge Schroeder's August 28, 2009, Report and Recommendation, the plea agreement, transcript of the proceeding, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Schroeder's Report and Recommendation, and will accept Judge Schroeder's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Schroeder's August 28, 2009, Report and Recommendation (Docket No. 466) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant Mark Smith is accepted, and he is now adjudged guilty of Title 21, U.S.C. Section 843(b).

SO ORDERED.

Dated: October 28, 2009
Buffalo, New York

/s/ William M. Skretny
WILLIAM M. SKRETNY
United States District Judge